

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:08-CV-388**

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**Ronald B. Schmoll & )  
Gerlind R. Schmoll, JT TEN; )  
Ronald B. Schmoll Roth IRA; )  
Ronald B. Schmoll Rollover IRA; )  
Gerlind R. Schmoll Rollover IRA, )  
 )  
Petitioners, )  
 )  
vs. ) **ORDER OF DEFAULT**  
 )  
Kenneth J. Pujdak, )  
 )  
Respondent. )**

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**THIS MATTER** is before the Clerk on Petitioners' Motion for Entry of Default against Respondent, Kenneth J. Pujdak ("Respondent") and in favor of the Petitioners, Ronald B. Schmoll and Gerlind R. Schmoll, JT TEN, Ronald B. Schmoll Roth IRA, Ronald B. Schmoll Rollover IRA and Gerlind R. Schmoll Rollover IRA (collectively, "Petitioners"). Upon review of the pleadings, motions, affidavits and other matters filed herein, the court finds and concludes as follows:

Pursuant to an Order dated January 7, 2009 (#11), this court directed Service

by Publication on the Respondent which consisted of publishing a Notice of Service of Process by Publication in the *Greenville News* of Greenville County, South Carolina.

Proof of Service of Process by Publication was filed with this Court on March 11, 2009 (#12).

No Answer has been filed with this court by Respondent, Kenneth J. Pujdak.

No Answer has been delivered to Karolyi-Reynolds, PLLC, 707 N. Main Street, Hendersonville, NC 28792 as requested in the Notice of Service of Process by Publication (#12, Exhibit A).

Respondent, Kenneth J. Pujdak is before this Court having been properly served by publication effective January 9, 2009.

Since Respondent, Kenneth J. Pujdak has been served by publication for more than forty (40) days, and the Respondent has not been granted an extension of time to Answer, Petitioners are entitled to entry of default by the Clerk. Fed.

R, Civ. P. 55.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

(a) The default of the Respondent, Kenneth J. Pujdak is entered for the Respondent's failure to answer or otherwise appear to defend this case as required by law.

(b) The Petitioners will be entitled to judgment by default in accordance with the Petition filed in this case, upon the offer and acceptance of proof of the material allegations in the Petition.

Signed: April 13, 2009

s/Joan Gosnell

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Case Manager